

4 MAR 1981

*File to GSA
Paper Paper
12.6*

MEMORANDUM FOR: Deputy Director for Administration

FROM: James H. McDonald
Director of Logistics

SUBJECT: Waiver from Mandatory Provisions of the General
Services Administration Federal Supply Schedule
Program

1. The purpose of this memorandum is to recommend that the DDA request a blanket waiver for this Agency from the mandatory provisions of GSA's Federal Supply Schedule program, 41 Code of Federal Regulations, Chapter 101 Federal Property Management Regulations, Subchapter E, Supply and Procurement.

2. The Federal Property and Administrative Services Act (40 USC 471, et seq.) assigns to the Administrator of GSA responsibility for the establishment of policies and methods for procurement and supply of personal property and nonpersonal services. The Act (40 USC 481a) states that the Administrator shall establish such policies and procedures when he determines that they are advantageous "in terms of economy, efficiency, or service, and with due regard to the program activities of the agencies concerned" (emphasis added). The implementation of GSA's procurement policy management authority establishes FSS contracts as the primary source of supply when items or services are not available within the Federal establishment. There is no provision in GSA's implementing regulations (41 CFR 101-26) to permit an agency to exempt itself from the purview of mandatory FSS contracts for procurement of property or nonpersonal services based on national security considerations.

3. The lack of such a provision can create several problems in carrying out this Agency's procurement program. GSA's regulations require an agency to seek a specific waiver in each procurement when the agency determines that an item on a FSS contract does not satisfy a functional end-use purpose. The request for waiver must include information concerning the items intended use; such information may be classified. Further, no procurement action may be taken by the requesting agency pending GSA's review.

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4. A second potential problem created by the FSS is the requirement that agency orders exceeding the maximum dollar limitation in a FSS contract must be forwarded to GSA for procurement action. Although we have been successful in acquiring waivers from GSA for such requirements, the process causes delays in satisfying Agency procurement requirements. Finally, GSA requires that an agency furnish it with copies of purchase orders in those cases where an agency procures an identical item from a source other than the FSS contractor at a lower price. STATINTL

6. Based on the foregoing, it is recommended that the DDA execute and transmit the attached letter to the Administrator, GSA, for his approval.

/s/ James H. McDonald

James H. McDonald

Att

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